

REMARKS

This Amendment is responsive to the Office Action mailed on March 28, 2007.

As a preliminary matter, Applicants would like to thank the Examiner for the courteous and productive telephone interview held on June 25, 2007, the details of which are set forth below.

Claims 1, 14 and 15 are amended. Claims 1-8 and 10-15 are pending.

Claims 14 and 15 are rejected under 35 U.S.C. § 112 as being indefinite. Claims 14 and 15 are amended to overcome the rejection under 35 U.S.C. § 112, withdrawal of which is respectfully requested.

Claims 1-8 and 10-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Pallotta (3,459,187).

Applicants respectfully traverse these rejections in view of the amended claims and the following comments.

Discussion of June 25, 2007 Telephone Interview with Examiner

Applicants' agree with the content of the Interview Summary mailed by the Examiner on July 30, 2007.

Discussion of Amended Claims

Claim 1 is amended to specify that the connecting arrangement of the connecting device in the retaining chamber is formed by the at least one shaft end projecting into the shaft end-seating (See, e.g., Applicants' specification, page 7, lines 4-11). Claim 1 is also amended to specify that the at least one shaft end-seating has an associated insertion recess with an insertion opening and the shaft end is adapted to be pushed into the shaft end-seating via the insertion opening transverse to a direction of projection of the at least one shaft end in the corresponding shaft end-seating (See, e.g., Applicants' specification, page 8, lines 21-27; and Figures 5 and 6). Claim 1 is further amended to specify that the shaft end is form on one of the first part or the

second part in a one piece manner (see, e.g., Applicants' specification, page 1, line 28 through page 2, line 5).

Claims 14 and 15 are amended to overcome the rejection under 35 U.S.C. § 112, withdrawal of which is respectfully requested.

Discussion of Pallotta

Claims 1-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Pallotta. This rejection is respectfully traversed. An anticipation rejection requires that each and every element of the claimed invention as set forth in the claim be provided in the cited reference. See *Akamai Technologies Inc. v. Cable & Wireless Internet Services Inc.*, 68 USPQ2d 1186 (CA FC 2003), and cases cited therein. As discussed in detail below, Pallotta does not meet the requirements for an anticipation rejection.

Pallotta discloses a surgical clamp 11 including an external member 12, an internal member 13, pivot pin 14 and a bearing sleeve 15 (col. 3, lines 12 to 14). For manufacturing the surgical clamp 11, the member 13 is inserted into a slot 22 in member 12 (col. 3, lines 38-39). A bearing sleeve 15 is forcibly fitted into a hole 32 of the member 13 (col. 3, lines 40-41). Afterwards, this hole 32 and the hole 31 on the external member 12 are aligned and the pin 14 is forcibly inserted through both holes to pivotly connect members 12 and 13, thus making sleeve 15 fully captive (col. 3, lines 42-44). Compressive forces are then applied longitudinally to both protruding ends of pin 14, by hammering the pin which has been placed upon an anvil 34 (col. 3, lines 48-50). The pin 14 can expand in the hole 31 in the external member 12 for fixing the pin 14 permanently immovably therein (col. 3, lines 52-56). This process can be seen in figures 3 to 5 of Pallotta.

As discussed with the Examiner during the June 25, 2007 telephone interview, Pallota employs a separate pin 14 to connect the two members 12 and 13. In contrast, with Applicants' amended claim 1, the shaft end is formed on the first part or the second part in a one piece manner. Pallota does not disclose or suggest a medical instrument having a shaft end formed on a

first part or a second part for connecting the first part to the second part, as claimed by Applicants in amended claim 1.

Further, the Examiner equates element 31 of Pallotta with both Applicants' claimed insertion recess and Applicants' claimed shaft end seating. Reference numeral 31 of Pallotta designates a hole in member 12 in which the separate pin 14 is inserted to connect members 12 and 13 ((Col. 3, lines 33-45). If the top portion of hole 31 of Pallotta is taken to be an insertion recess, then the pin 14 is pushed directly into the hole 31 in the same direction that the pin projects when inserted into holes 31 and 32. In contrast, with Applicants' claimed invention, the insertion recess has an insertion opening and the shaft end is adapted to be pushed into the shaft end-seating via said insertion opening transverse to a direction of projection of the at least one shaft end in the corresponding shaft end-seating. In other words, with Applicants' claimed invention, the shaft end is not pushed directly into the shaft-end seating, but rather is pushed in from the side via the insertion opening and insertion recess. See, e.g., Applicants' Figure 5, which shows the shaft end 36 on one part being pushed into the insertion recess 62 and the shaft-end seating 32 on the other part in a direction 64 which is transverse to a direction that the shaft end 36 projects.

Pallotta does not disclose or remotely suggest a medical device with one part having a shaft end adapted to be pushed into the shaft end-seating of the other part via an insertion opening transverse to a direction of projection of the at least one shaft end in the corresponding shaft end-seating, as claimed by Applicants.

As Pallotta does not disclose each and every element of the invention as claimed, the rejections under 35 U.S.C. § 102(b) are believed to be improper, and withdrawal of the rejections is respectfully requested. See, *Akamai Technologies Inc., supra*.

Applicants respectfully submit that the present invention is not anticipated by and would not have been obvious to one skilled in the art in view of Pallotta, taken alone or in combination with any of the other prior art of record.

Further remarks regarding the asserted relationship between Applicants' claims and the prior art are not deemed necessary, in view of the amended claims and the foregoing discussion.

Applicants' silence as to any of the Examiner's comments is not indicative of an acquiescence to the stated grounds of rejection.

Withdrawal of the rejections under 35 U.S.C. § 102(b) is therefore respectfully requested.

Conclusion

The Examiner is respectfully requested to reconsider this application, allow each of the pending claims and to pass this application on to an early issue. If there are any remaining issues that need to be addressed in order to place this application into condition for allowance, the Examiner is requested to telephone Applicants' undersigned attorney.

Respectfully submitted,



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